

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 99-4580

EDDIE YOUNG, JR.,
Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of West Virginia, at Martinsburg.
W. Craig Broadwater, District Judge.
(CR-99-8)

Submitted: March 31, 2000

Decided: July 25, 2000

Before WILLIAMS and TRAXLER, Circuit Judges, and
BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

James T. Kratovil, Charles Town, West Virginia, for Appellant. Melvin W. Kahle, Jr., United States Attorney, Thomas O. Mucklow, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Eddie Young, Jr. appeals his jury conviction and resulting 110-month sentence for possession with intent to distribute cocaine in violation of 21 U.S.C.A. § 841(a)(1) (West 1999). We affirm the conviction and sentence.

Young argues the district court erred in allowing the Government to introduce evidence under Fed. R. Evid. 404(b) because it was not disclosed to the defense within the time provided by the local rules and was improperly offered to establish Young's propensity toward crime. Review of a district court's admission of evidence under Rule 404(b) is for abuse of discretion. *See United States v. Queen*, 132 F.3d 991, 995 (4th Cir. 1997). A district court will not be found to have abused its discretion unless its decision to admit evidence under Rule 404(b) was arbitrary or irrational. *See United States v. Haney*, 914 F.2d 602, 607 (4th Cir. 1990). We have reviewed the record and conclude that the court did not abuse its discretion in admitting the evidence.

Young further argues that the court gave an erroneous jury instruction and erred in failing to allow the jury to consider the lesser-included offence of simple possession. We find the court did not abuse its discretion in instructing the jury. *See United States v. Abbas*, 74 F.3d 506, 513 (4th Cir. 1996). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED